

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

UNITED STATES OF AMERICA)
)
) No. 3:14-CR-368-B-1
vs.)
)
DONTRAYE POTTER,)
Defendant.)

ORDER ACCEPTING FINDINGS AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE

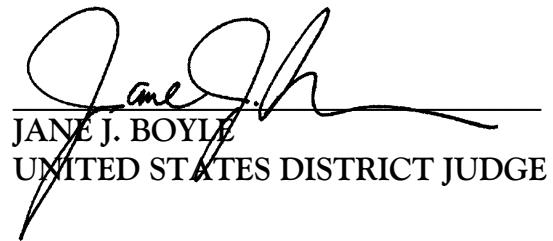
After reviewing all relevant matters of record in this case, including the Findings, Conclusions, and Recommendation of the United States Magistrate Judge and any objections thereto, in accordance with 28 U.S.C. § 636(b)(1), the Court is of the opinion that the Findings and Conclusions of the Magistrate Judge are correct and they are accepted as the Findings and Conclusions of the Court. For the reasons stated in the Findings, Conclusions, and Recommendation of the United States Magistrate Judge, the defendant's Motion to Reconsider Sentence on Ground of Newly Discovered Evidence, received on January 21, 2020 (doc. 69), is construed as a successive 28 U.S.C. § 2255 motion, and it will be **TRANSFERRED** to the United States Court of Appeals for the Fifth Circuit under *Henderson v. Haro*, 282 F.3d 862, 864 (5th Cir. 2002), and *In re Epps*, 127 F.3d 364, 365 (5th Cir. 1997), by separate judgment.¹

The Clerk of the Court is **DIRECTED** to (1) terminate the motion filed in this case on January 21, 2020; (2) open a new habeas case for administrative purposes only; (3) file the January 21, 2020 motion in that new case as a motion filed under 28 U.S.C. § 2255; (4) directly assign the new case to the same District Judge and Magistrate Judge as in this case; (5) file a copy of the

¹ A certificate of appealability (COA) is not required to appeal an order transferring a successive habeas petition. See *In re Garrett*, 633 F. App'x 260, 261 (5th Cir. 2016); *United States v. Fulton*, 780 F.3d 683 (5th Cir. 2015).

Findings, Conclusions, and Recommendation of the United States Magistrate Judge and the order accepting those Findings, Conclusions, and Recommendation, and the judgment in that new case; and (6) and without further judicial action, immediately **TRANSFER** the newly opened § 2255 action to the United States Court of Appeals for the Fifth Circuit.

SIGNED this 21st day of April, 2020.



JANE J. BOYLE
UNITED STATES DISTRICT JUDGE